



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

Matter of:       JoaQuin Mfg. Corp.

File:            B-230645

Date:            June 21, 1988

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### **DIGEST**

1. Protest that solicitation for fiberglass equipment shelters unduly restricted competition by specifying particular construction design is denied where record supports the procuring agency's determination that this design is required to meet its needs,
2. Protest that solicitation requirements were "written around" design features of a competitor's product is denied where agency establishes that solicitation requirements are reasonably related to its minimum needs. The number of possible sources for an item does not determine the restrictiveness of the requirements.

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### **DECISION**

JoaQuin Mfg. Corp. protests the specifications for equipment shelters contained in invitation for bids (IFB) No. DTFA04-88-B-30001, issued by the Federal Aviation Administration (FAA). The protester alleges that the specifications are unduly restrictive and favor one manufacturer.

The solicitation, issued February 9, 1988, is for prefabricated fiberglass buildings to be used as equipment shelters for storage of sensitive air navigation equipment at remote locations in Alaska. The solicitation specified that the shelters be constructed as "a one piece dome composed of fiberglass reinforced polyester (FRP) shells [an inner shell and outer shell] and polyurethane insulation with the shells attached to a sandwich panel floor." Each shell was required to be a one piece molded gelcoated fiberglass reinforced polyester laminate. Polyurethane insulation was to be foamed in between the shells.

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JoaQuin argues that the specifications should not require that the shelters be manufactured using the unitized or dome construction method. It contends that any quality shelter, including a shelter built in a panel form, can meet the solicitation's structural requirements such as roof, wall, and floor load and will satisfy the agency's needs. It argues that the specifications requiring the unitized design are drawn around one manufacturer's product and are therefore restrictive of competition.

FAA reports that the specifications are based upon an industry recognized category of shelters and not upon a particular brand name. It contends that it needs equipment for shelters which are prefabricated, lightweight and require little maintenance for storage of sensitive navigation equipment at remote locations in Alaska. These needs are based in part upon the harsh environment at these locations which are subject to large temperature extremes, high winds and ocean spray. Because of this, FAA reports that shelters with a single dome or unitized construction constructed of only two materials (FRP and insulation) are needed because they are lightweight and they lack interior joints or joined panels. The agency says that these joints tend to deteriorate due to the temperature extremes and permit the intrusion of moisture which may damage the stored equipment. The problem is accelerated by the high winds which occur in the shelter locations. Finally, FAA argues that even if the joints in the shell are "glassed over" with sprayed on FRP its experience shows that the FRP tends to crack because of the hostile environment which then exposes the joint to the problems discussed above.

In its comments on the agency report, JoaQuin contends that its shelters, constructed with fiberglass sprayed over plywood, are more durable and impact resistant than dome shelters with FRP and insulation alone. It argues that FAA's concern over damage caused by temperature extremes (expansion and contraction of the joined panels) is unreasonable because plywood and FRP have compatible expansion properties. Furthermore, JoaQuin argues that the dome shelters are more likely to deteriorate than the shelters it makes because dome shelters have a continuous seam along the floor panel and those longer than 16 feet also have a seam in the roof through which moisture can penetrate. Lastly, it argues that even though its shelter weighs 6 pounds more than a similar dome shelter, the weight of the shelter is immaterial since the costs of transporting the shelters to the remote locations depends more on the distance traveled than on the cargo's weight.

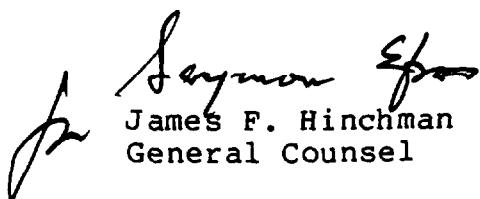
In preparing a solicitation for supplies or services, a contracting agency must specify its needs and solicit bids or offers in a manner designed to achieve full and open competition, so that all responsible sources are permitted to compete. 41 U.S.C. § 253(a)(1)(A) (Supp. III 1985); Warren Oliver Co., B-228081.2, Dec. 3, 1987, 87-2 CPD ¶ 543. Consequently, when a protester challenges specifications as unduly restrictive of competition, the procuring agency bears the burden of presenting prima facie support for its position that the restrictions are necessary to meet its actual minimum needs. CAD/CAM On-Line, Inc., B-226103, Mar. 31, 1987, 87-1 CPD ¶ 366. Determinations of the agency's minimum needs and the best method of accommodating those needs are primarily matters within the agency's discretion and, thus, once the agency establishes support for challenged specifications, the burden shifts to the protester to show that the specifications are clearly unreasonable. Warren Oliver Co., B-228081.2, supra.

We think that FAA has presented sufficient support to justify its requirement for shelters constructed in the manner specified by the solicitation. JoaQuin, while disagreeing with the requirement by contending generally that other construction methods will produce a shelter that will meet the agency's needs, has not shown that FAA's judgment that shelters constructed by the unitized design are necessary for the specialized use here is unreasonable. In this regard, we have held that in technical disputes, a protester's disagreement with the agency's opinion, even where the protester's position is supported by expert technical advice does not invalidate the agency's opinion. Repco, Inc., B-227642.3, Nov. 25, 1987, 87-2 CPD ¶ 517.

As for JoaQuin's contention that the construction requirements are written around a particular product, it is our view that solicitation requirements based upon a particular product are not improper in and of themselves, and that an argument that a requirement is "written around" design features of a competitor's product is not itself a valid basis for protest where, as here, the agency establishes that the specification is reasonably related to its minimum needs. Target Financial Corp., B-228131, Nov. 23, 1987, 87-2 CPD P 506. Moreover, it is well established that the number of possible sources for an item or service does not determine the restrictiveness of specifications. Repco, Inc., B-227642.3, supra.

We find no basis to question the reasonableness of FAA's requirement for shelters constructed in the manner set forth by the solicitation.

The protest is denied.

James F. Hinchman  
General Counsel